

# **STATE PROPERTIES COMMITTEE MEETING**

**TUESDAY, SEPTEMBER 10, 2013**

The meeting of the State Properties Committee was called to order at 10:02 a.m. by Chairman Ronald N. Renaud. Attendance of the members was taken by roll call and the following members made their presence known: Robert K. Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; Christopher Feisthamel representing the Rhode Island Office of the General Treasurer, Ex-Officio Member. Others in attendance were Kelly Carpenter from the State of Rhode Island Senate Fiscal Office; Christine Brien, Annette Jacques and Robert B. Jackson from the Rhode Island Department of Transportation; and Mary E. Kay and Larry Mouradjian from the Rhode Island Department of Environmental Management.

Chairman Renaud stated for the record that the State Properties Committee did have a quorum present.

A motion to approve the minutes from the State Properties Committees meeting held on July 30, 2013, was made by Mr. Woolley and seconded by Mr. Griffith, although Mr. Griffith indicated that he was not present at said meeting.

**Passed Unanimously**

A motion to approve the minutes of the State Properties Committee meeting held on August 27, 2013, was made by Mr. Woolley, subject to the number of parking spaces being revised from 16 spaces to 13

spaces relative to Item A. Said motion was seconded by Mr. Griffith, subject to the correction of typographical errors relative to page nos. 3 and 6.

**Passed Unanimously**

**ITEM A - Department of Transportation - A request was made for conceptual approval to sell 18,026± square feet of vacant State-owned land located west of abandoned "Old East Avenue" near the Route 113 Access Ramp of Route 95 north bound in the City of Warwick. Ms. Brien explained that the Department is before the Committee seeking conceptual approval to sell the above-referenced parcel of land that has been deemed excess to the Department's needs. On January 28, 1974, the Department acquired land in Warwick to construct the Route 95 north bound exit ramp at Route 113. Ms. Brien indicated that said parcel consists of 18,026± square feet of land and reiterated that said parcel has become surplus to highway need and has now become available for sale. Ms. Brien stated that the parcel of land is situated east of Route 95 on the westerly side of abandoned "Old East Avenue." Ms. Brien presented a site map of abandoned "Old East Avenue" for the Committee's review. On August 14, 2008, the State Properties Committee denied the applicant's offer of \$100,000.00 to acquire the subject property; however, the Committee did not rule against Bellecastle Realty' purchase of said property for fair market value. Ms. Brien noted that a new appraisal was conducted in January of 2010, which yielded a value of \$8.00 per square foot or a total value of \$144,208.00. Ms. Brien stated that Bellecastle Realty has agreed, in writing, to**

**purchase the subject property for \$144,208.00. Therefore, the Department respectfully requests the Committee's approval to sell said property to Bellecastle Realty at this time. By way of background, Ms. Jacques explained that in August of 2007, the subject property was offered via a request for proposals which failed to generate a single response or proposal.**

**Additionally, through the appraisal process it was established that the subject property can only be accessed through an easement which runs through the abutting land owner's property, namely, Bellecastle Realty, therefore, it is considered a circuitous route. Ms. Jacques noted that she did not have the easement language readily available at this time, but indicated she would be able to determine the type of access provided by viewing a site map. However, she acknowledged that the condition relating to access was part of both the initial appraisal and the request for proposals, which she reiterated produced no interested bidders and thus encouraged further dialogue between the Department and Bellecastle Realty regarding the sale of the subject property. Additionally, Ms. Brien noted that the appraiser pointed out that said parcel of land has no direct access from any public road accept over this easement which actually benefits the Department and the appraiser stated that the property's highest and best use is as assimilated with Carpionato's holdings, as the subject parcel is surrounded by Carpionato property and has little utility to anyone besides Carpionato. Mr. Woolley questioned whether there is another parcel of land in the nearby vicinity that the Department has agreed to sell to Carpionato as part**

of a settlement relating to the Providence Viaduct Bridge Project. Ms. Jacques illustrated the location of the parcel of land in question using a site map. Ms. Jacques stated that in 2010, the Department entered into an Option to Purchase Real Estate Agreement with Warwick Hotel Properties for said State-owned parcel, which will expire in 2015. At the time the Department entered into this Agreement, there was a complete prohibition from granting access to the property from Routes 113 and/or 5. However, the Department appeared before the Committee, seeking its approval to allow Warwick Hotel Properties to submit a physical alteration permit to the Department for access to the parcel from Route 113 only. Ms. Jacques noted that said access request was granted subject to its compliance with the physical alternation permit's rules and regulations. She further noted that there is no entrance or egress from Route 5. Further discussion ensued relative to the easement, the requested approval of entrance and egress together with discussion regarding additional State-owned property which the Department is not willing to sell. Mr. Woolley asked Ms. Jacques to clarify what the purpose of the easement is. Ms. Jacques stated that it is an access easement to the back parcel and the appraiser deemed said easement to be the safest and most secure route to access said back parcel. Mr. Woolley asked whether the "back parcel" is land locked. Ms. Brien indicated that save the subject easement, the "back parcel" is a land locked parcel. Mr. Feisthamel asked whether Old East Avenue is passable. Both Ms. Brien and Ms. Jacques stated that Old East Avenue no longer exists; it is not a road. Mr. Woolley asked if request before the Committee

should be approved, will the deed specifically address any and all restrictions relative to the prohibition of highway access. Ms. Jacques indicated that at the present time she is not entirely sure what restrictions the Deed will include; however, she wishes to ensure that the physical alteration permitting process remains under the jurisdiction of the Department of Transportation. However, if highway access is denied then the Department will of course comply with said decision. Ms. Jacques stated that based upon what the Department has seen through the RFP process, there was not any ability to provide access from the off ramp. Mr. Woolley indicated that based upon experience, he has observed the Department's creativity in terms of providing access when the same is requested and/or necessary. Mr. Feisthamel asked if the appraisal was in fact performed in 2010. Ms. Jacques stated that the original appraisal was performed in 2010; however, the Department's Appraisal Division was asked to review said appraisal and to update and revise the same as necessary for today's meeting. Ms. Jacques stated that the Appraisal Division reviewed the original appraisal report and submitted an updated analysis report which indicated that the said appraisal had been reviewed in it's entirety and that all aspects of said report were deemed accurate and identical to those contained in the updated appraisal report. Further, the updated report indicated that the original evaluation that established a purchase price of \$8.00 per square foot remains valid. Mr. Feisthamel asked if the original appraisal was performed by the Department or by an outside commissioned appraiser. Ms. Jacques indicated that the original

appraisal was conducted as an in-house appraisal and assured Mr. Feisthamel that all Department appraisers are licensed and certified. Mr. Feisthamel asked whether the subject property is zoned consistent with the abutting properties. Ms. Jacques noted that the subject property is zoned consistently with the abutting properties and explained that the State is exempt from municipal zoning requirements; therefore, the Department never sells property subject to any representation requiring it to meet any particular zoning; that is left up to the buyer. Mr. Woolley asked if a bargain and sale deed will be utilized for this acquisition. It is Ms. Jacques understanding that all deeds at this time are bargain sale deeds. Chair Renaud asked whether the Department has sent a notification to potential objectors advising them of the subject acquisition. Ms. Brien indicated that notice of the intended acquisition was sent to the City of Cranston and to the previous owners. Chair Renaud asked if said notice was sent within the last year. Ms. Brien indicated that notice was sent a few months ago. Mr. Mitchell questioned how the Department could forward a notice of the intended sale to the municipality and the previous owner, absent a duly executed purchase and sale agreement. Ms. Jacques explained that the Department has appeared before various other committees several times relative to the sale of the subject property and given the passage of time, the Department felt it was prudent to send an offering letter before appearing before the State Properties Committee. However, it is not the Department's practice to include a copy of the purchase and sale agreement with the offering letter,

rather the terms and conditions of the transaction are clearly stated in lieu of said agreement. Further, Ms. Jacques stated that if this Committee places any additional conditions on the sale of said property, the Department will prepare a revised offering letter which will include said additional conditions and forward the same to all interested parties for their consideration. Mr. Mitchell disagreed with the Department's notice process as explained by Ms. Jacques, and stated that the purchase and sale agreement is the offer as it reflects the terms and condition negotiated and agreed to by the parties and thus, said agreement should be presented to the municipalities and former owners for their consideration. Ms. Jacques stated that she does not believe the Department currently includes a copy of the purchase and sale agreement when sending notice of an intended sale to municipalities or former owners, but instead prepares a summary of the terms and conditions contained therein. If the Department does not receive a response indicating that either the municipality or the former owner are interested, then the Department enters into a purchase and sale agreement at that time. Ms. Jacques stated that going forward, the Department certainly can and will include the actual purchase and sale agreements with the notices sent to the municipalities and the former owners if that is the Committee's pleasure. Mr. Feisthamel inquired whether this is one of properties that the Department sought a waiver of the standard surplus property circulation process. Ms. Jacques stated that it is. Chair Renaud stated that as he had been made aware of the need to accelerate the State Properties Committee circulation process, he

directed the Committee's secretary to circulate the surplus property packages to the various State agency forthwith and to include the Department's request for conceptual approval to dispose of the subject property on this meeting's agenda. Chair Renaud explained that this would accelerate the thirty (30) day "comment and/or objection" time period and allow the Committee the option to approve the Department's request, if deemed appropriate, subject to there being no expressed interest and/or objection received by the Committee from any State-agency regarding the proposed sale of said property. A motion was made to grant conceptual approval of the proposed transaction, subject to the prohibition from granting any access whatsoever to the subject property from either Routes 113 and/or 5 as previously decided by the State Properties Committee and subject to there being no response received by the Committee from any State-agency expressing any interest in or object to the proposed transaction within the mandated thirty (30) day period. Said motion was seconded by Mr. Woolley.

Under discussion, Mr. Coates, representing Bellcastle Realty indicated that it is his assumption that the same language together with the same terms and conditions will apply to any offer extended to the various the State agencies, former owners or municipality. Mr. Coates noted the easement was only granted as a favor to RIDOT, otherwise the property is one hundred (100%) percent landlocked as to any other third party. Mr. Coates wished to make it clear to the State Properties Committee that Bellecastle Realty will certainly not facilitate access over its property to any State-agency, former owner



or a municipality. Mr. Woolley asked Ms. Jacques if the easement is restricted to RIDOT or if it can be conveyed along with the parcel. Ms. Jacques reiterated that the Department has an easement on a map, but she has been unable to locate an actual easement document; however, she further indicated that she will find said document if it exists. Ms. Jacques summarized the subject transaction and any and all issues and/or circumstances surrounding the same as follows: Ms. Jacques stated that when the State of Rhode Island retained the property and transferred all the other property around it, she believes that the State would have reserved an easement back to itself in order to access the property. Ms. Jacques stated that she has not read the actual easement document in order to determine whether the easement was exclusive to the Department of Transportation, although she does not think that would be entirely unlikely. Ms. Jacques reiterated that she has not seen the actual document, but she is able to see an easement on a map. Ms. Jacques indicated that said easement would most likely extinguish once the subject parcel is sold. Any sewer easements, drainage easements would be the subject of record. Ms. Jacques stated that she would think the purchaser would request that any access across their property be extinguished once they successfully purchased the property. The purchaser would want the property to be clear so that no one had the right to cross over property that no longer had any vested with the State. Mr. Woolley commented that the Department may wish to transfer the easement along with the parcels. Ms. Jacques noted that the Department could do that rather than extinguish the easement;

however, she believes that the Department would certainly retain any type of drainage or sewer easements that are necessary for the highway facility. Mr. Feisthamel asked if the easement was transferred with the parcel whether the appraised value of \$8.00 per square foot would remain accurate. Mr. Woolley stated he believes that the appraised value of \$8.00 per square foot includes the circuitous access. Mr. Woolley noted that in previous discussions, the appraiser stated that he took the access into consideration as part of the appraisal and that it had diminished the property's value because the access did not provide a short, straight shot into the parcel, but rather a long and winding access road. Mr. Woolley believes the appraiser assumed the circuitous access would be transferred as part of the parcel as there is nothing in the appraisal report that suggests the parcel is landlocked. Mr. Feisthamel asked Ms. Jacques whether the appraisal did in fact contemplate use of the easement. Ms. Jacques stated that the appraiser did contemplate use of the easement in determining the property's value at \$8.00 per square foot.

**Passed Unanimously**

**ITEM B - Department of Transportation - A request was made for conceptual approval to sell 11,016 square feet  $\pm$  of State-owned land located on Jefferson Boulevard at Airport Connector Road in the City of Warwick. Ms. Brien explained that the subject property is triangular shaped and a very unusual parcel. The Department determined the parcel surplus to highway needs upon the completion**

of the Airport Connector construction in 1965. An appraisal of the property conducted in 2012 established its value at \$10.00 per square foot. The applicant, Jefferson Hotel Associates, who is the only abutter to the property is seeking to purchase the property. Mr. Woolley recalls that the applicant's original proposal was to purchase the entire parcel rather than just a portion of it. Ms. Jacques stated that is correct and that back in 2006, the applicant wished to purchase the entire parcel right up to the roadway, with the exception of whatever land the Department needed for highway purposes. However, Statewide Planning requested that the Department not sell the entire parcel in order to retain the existing tree line. Ms. Jacques indicated that the applicant recently renewed its request to purchase the land. The Department scaled back the amount of the land being offered for sale to 11,016 square feet in order to preserve the tree line.

Ms. Jacques explained that due to the lack of access from the ramp and because any access from Jefferson Boulevard would be too close to the existing right hand turn, the Department considered Jefferson Hotel Associates to be the only likely purchaser of the property as the abutter. Ms. Jacques noted that the applicant wished to purchase this irregular shaped parcel for additional parking and beautification. Chair Renaud asked if the appraisal was an in-house appraisal. Ms. Jacques stated that the appraisal was conducted in 2012, by one of the Department's certified in-house appraisal staff. Mr. Feistham asked if a curb cut would be allowed on the small frontage portion of the parcel. Ms. Jacques stated that it would be highly unlikely that a curb cut would be allowed from an engineering

standpoint. The Department has not received a request for a physical alternation permit in that area and the could certainly restrict any sale subject to no access being allowed from that portion of the property. Mr. Feisthamel indicated that he asked because if it were possible to obtain a curb cut at that location, it would surely make the subject property more valuable. Ms. Jacques noted that this applicant would not need to access the property from the frontage portion as they already have access to their property fifty feet down the road. Ms. Jacques stated that it would be unlikely for the Department to allow a right hand in such close proximity to the existing right hand turn. A motion to grant conceptual approval, subject to the Department including a restriction in the deed prohibiting any access from Jefferson Boulevard into the subject property. Said motion was seconded by Mr. Griffith.

#### **Passed Unanimously**

**ITEM C - Department of Transportation - A request was made for conceptual approval to sell 31,816 square feet  $\pm$  of State-owned land located on Airport Road in the Town of Westerly. Ms. Brien explained that the subject property was appraised at \$8.00 per square foot via an in-house appraisal conducted in December of 2012. The applicant, Westerly Ventures, has agreed, in write, to pay the purchase price despite any restrictions associated with the parcel. Ms. Brien indicated that Rhode Island Airport Corporation has placed restrictions on the sale and that the offering letter to Westerly Ventures included two (2) sets of specific restrictions. The Department just received another restriction stipulating that parking**

will be prohibited by deed restriction. Therefore, the property will basically be used for beautification and ground absorption. Mr. Feisthamel asked if the subject property is buildable lot. Ms. Brien indicated that the subject property is an undersized lot as the minimum requirement in the Town of Westerly for a stand alone lot is 40,000.00 square feet. The Department confirmed with the Town that the subject property is not a buildable lot. Further, the Town informed Ms. Brien that the zoning in this area is either highway commercial or office/research/assembly and technology; however, the subject property does not meet the requirements as a stand alone parcel. Ms. Jacques stated that the Rhode Airport Corporation has placed very significant restrictions on the property, thereby making its likelihood of being available through a request for proposals or to another applicant, other than the abutter who can utilize the same for drainage and/or beautification, is highly unlikely. Ms. Jacques indicated that due to the property's close proximity to the airport, when the applicant initially expressed an interest in purchasing the parcel, the Department informed them that they would need to go through the Rhode Island Airport Corporation to obtain a letter of approval and/or any restrictions. The applicant was additionally informed that any sale would be subject upon both the State Properties Committee's approval and any restrictions placed on the property by the Rhode Island Airport Corporation for safety reasons as Ms. Jacques believes the property is situated in a runway zone. Ms. Jacques explained that the Department is under a lease hold with the Rhode Island Airport Corporation; however, this particular

property is located on the other side of Airport Road so it does not fall under the formal lease with them, but because its location is so close, the Department wished to fully consult and work with RIAC regarding any sale. Chair Renaud stated that the Committee was provided with a letter from RIAC. Ms. Jacques indicated that there is a 2011 letter and then in 2012, RIAC forwarded an email updating the RPZ Zone restrictions. Further, as part of the conceptual approval for State-agencies process, RIAC responded to the State Properties Committee to further clarify that parking is prohibited as well as glaring lights and/or flashing lights are likewise prohibited. Chair Renaud stated that RIAC also clarified the restrictions relative to trees in the area and that the deed shall include an aerial easement back to RIAC allowing them to clear any also there shall be an aerial easement back to the RIAC giving them the ability to clear any obstructions, in the event someone should construct a tall building or a tree grew beyond the specified and allowed height. Additionally, Ms. Brien stated that any access to the parcel must come from the existing internal road system from Salt Pond Plaza; not from Airport Road Connector. Mr. Woolley clarified that parking is prohibited. Ms. Jacques indicated that the parking restriction is the most resent restriction from RIAC. Further restriction from RIAC and Statewide Planning and any other restrictions were discussed at length and in great detail together with issues concerning whether the subject property is a stand alone/buildable lot. Following said discussion, a motion to approve was made by Mr. Woolley, subject to the granting of any and all easements to RIAC and subject to any and all

restrictions imposed by RIAC being included in the deed conveying said property. Said motion was and seconded by Mr. Griffith.

**Passed Unanimously**

**ITEM D - Department of Transportation - A request was made for conceptual approval to sell approximately 9,138 square feet of State-Owned land located in the south quadrant of Beavertail Road in the Town of Jamestown. Mr. Jackson explained that the subject parcel is for surface use only, due to the existence of drainage structures and also to meet the Town's set back requirements in order for the Petitioner or Designee to construct an addition to the existing home to the north. Mr. Jackson stated that building on the other side of the home is restricted due to an aerial easement. The sale of the property will include language that provides access to the Department for maintenance and repairs to the closed drainage system and the un-fettered access to the drainage structures and Stormceptor for vacuum cleaning. Mr. Jackson indicated that due to the configuration of the land, and the existence of the drainage structures on site, it is not a stand alone parcel. The Petitioner is the only abutter to the parcel. The Department's Land and Sales Committee approved the conveyance of said land on March 25, 2013. Chair Renaud asked if the Department of Environmental Management has any interest in the sale of the property. Mr. Jackson indicated that he has no knowledge of any comments and/or objections by the Department of Environmental Management and/or Coastal Resources Management Council. Chairman Renaud suggested that this matter be tabled to a future meeting of the State Properties Committee in**

order for the Department to receive and or obtain any and all objections and comments from the Department of Environmental Management as well as from the Coastal Resources Management Council regarding the proposed sale of the subject property. A motion to table this matter to a future meeting of the State Properties Committee was made by Mr. Woolley and seconded by Mr. Griffith.

**Passed Unanimously**

The Committee may move to go into Executive Session, pursuant to Rhode Island General Law 42-46-5(a)(5) for the specific purpose of discussion or consideration related to the acquisition or lease of real property for public purpose, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public relating to the following item:

A motion to enter into Executive Session was made by Mr. Griffith and seconded by Mr. Woolley.

A roll call vote was taken and the votes were as follows: Mr. Griffith voted "Aye", Mr. Woolley voted "Aye" and Chairman Renaud voted "Aye."

After detailed discussions relating to Executive Session Item E1 concluded, a motion to return to the open session of the State Properties Committee meeting and to seal the Executive Session minutes until such time as said matter is resolved was made by Mr. Griffith and seconded by Mr. Woolley.

**Passed Unanimously**



**Upon returning to open session at 11:35 a.m., the Committee proceeded to vote**

**relative to Item E1 presented in Executive Session.**

**ITEM E1 - Department of Environmental Management - a request was made for permission to negotiate an easement agreement on property located in Narragansett, Rhode Island; designated as Plat S. After a discussion in Executive Session, a motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.**

**Passed Unanimously**

**There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:36 a.m. The motion to adjourn was made by Mr. Griffith and seconded by Mr. Woolley.**

**Passed Unanimously**

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**Holly H. Rhodes, Executive Secretary**